

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

CARLTON C. PETTIGREW,

Petitioner,

v.

Case Number 08-12530-BC
Honorable Thomas L. Ludington

LLOYD RAPELJE,

Respondent.

**ORDER DENYING PETITIONER'S MOTION FOR A CERTIFICATE OF
APPEALABILITY AND DENYING MOTION FOR LEAVE TO APPEAL
IN FORMA PAUPERIS**

On July 31, 2008, this Court issued an opinion and order summarily denying Petitioner's application for habeas relief brought pursuant to 28 U.S.C. § 2254. This Court also denied Petitioner a certificate of appealability and leave to appeal *in forma pauperis*. Petitioner has now filed two identical motions for certificate of appealability [Dkt. # 6, 12] and two requests for leave to appeal in forma pauperis [Dkt. # 7, 11], which the Court construes as a motion for reconsideration of its prior opinion and order. For the reasons stated below, the motions for a certificate of appealability and to proceed in forma pauperis on appeal are **DENIED**.

Because this Court previously denied Petitioner a certificate of appealability and leave to appeal in forma pauperis when it denied the petition for writ of habeas corpus, the Court will construe Petitioner's motions for a certificate of appealability and his motions for leave to appeal in forma pauperis as a motion for reconsideration of the Court's prior order to deny a certificate of appealability and leave to appeal in forma pauperis in this case. *See e.g. Jackson v. Crosby*, 437 F.3d 1290, 1294 n. 5 (11th Cir. 2006).

E.D. Mich. LR 7.1 (h) allows a party to file a motion for reconsideration. However, a motion for reconsideration which presents the same issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. *See Michigan Regional Council of Carpenters v. Holcroft L.L.C.* 195 F. Supp. 2d 908, 911 (E.D. Mich. 2002)(citing to U.S. Dist.Ct. Rules, E.D. Mich. 7.1 (g)(3)). A motion for reconsideration should be granted if the movant demonstrates a palpable defect by which the court and the parties have been misled and that a different disposition of the case must result from a correction thereof. *Id.*

Other than conclusory or unsupported allegations, Petitioner has failed to advance any arguments in his request for a certificate of appealability which shows that this Court erred in denying the petition for writ of habeas corpus and in declining to issue a certificate of appealability. A habeas petitioner's conclusory assertion that jurists of reason would find his or her claims to be debatable is insufficient to warrant the issuance of a certificate of appealability. *See Babgy v. Saffle*, 53 Fed.Appx. 25, 28 (10th Cir. 2002). Petitioner's request for reconsideration will therefore be denied, because Petitioner is merely presenting issues which were already ruled upon by this Court, either expressly or by reasonable implication, when the Court denied Petitioner's application for writ of habeas corpus and denied him a certificate of appealability and leave to appeal in forma pauperis. *See Hence v. Smith*, 49 F. Supp. 2d 547, 553 (E.D. Mich. 1999).

Accordingly, it is **ORDERED** that Petitioner's motions for certificate of appealability [Dkt. # 6, 12] and the motions to proceed *in forma pauperis* on appeal [Dkt. # 7, 11] are **DENIED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: September 10, 2008

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 10, 2008.

s/Tracy A. Jacobs
TRACY A. JACOBS